

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SIXTH LEGISLATURE – SECOND SESSION

**BY**

**Introduced:**

**Referred:**

**A BILL  
FOR AN ACT ENTITLED**

**"An Act establishing the Jay Hammond Alaskan Heritage State Fish and Game Refuge and conserving fish, game, public lands and public uses of them in Southwest Alaska."**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

\* **Sec. 1.** AS 16.20 is amended by adding a new section to read:

**Sec. 16.20.045. Jay Hammond Alaskan Heritage State Fish and Game**

**Refuge.** (a) The state owned surface and subsurface land and water including interests therein, and that acquired by the state in the future, within the following boundary are designated as the Jay Hammond Alaskan Heritage State Fish and Game Refuge: beginning at the SE corner T7S, R54W, S.M. on the boundary of Wood-Tikchik State Park, which is the true point of beginning; thence north and on that boundary in a northerly, easterly, and westerly direction to a point where said boundary first intersects the divide between the Nushagak and Kuskokwim river drainages; thence in an easterly, northerly, westerly and southerly direction on that divide to the boundary of Lake Clark National Park and Preserve; thence in southerly, easterly, westerly, and northerly direction on that boundary to the boundary of the Lake and Peninsula Borough; thence southerly and westerly on the borough boundary to the SW corner of T5S, R26W; thence south the SW corner of T6S, R26W; thence west to the borough boundary; thence southerly and westerly to that boundary to the boundary of Katmai National Park and Preserve; thence northerly, westerly, southerly and easterly on the boundary of that park and preserve to the township line separating townships 14 from townships 15, S.M.; thence west on that line to the SW corner of T14S, R42W, S.M.; thence north to the NW corner of T13S, R42W, S.M.; thence west to the SW corner of T12S, R42W, S.M.; thence north to the SE corner of section 24, T11S, R43W, S.M.; thence northerly, westerly and southerly, following the boundary of native land to SW corner of T11S, R45W, S.M.; thence west to the SW corner of T11S, R52W, S.M.; thence north to the NE corner of section 24, T11S, R53W, S.M.; thence west to the NW corner of section 19, T11S, R53W, S.M.; thence north to the NW corner of section 30, T10S, R53W, S.M.; thence east to the NE corner of section 30, T10S, R53W, S.M.; thence north the NE corner of section 7, T10S, R53W, S.M.; thence west to the SW corner of section 4, T10S, R54W, S.M.; thence northerly and easterly on the boundary of native land to the SW corner of section 36, T8S, R53W, S.M.; thence east to the SW corner of T8S, R52W, S.M.; thence north to the NW corner of T8S, R52W, S.M.; and thence west to the point of beginning; but excluding from the refuge any private land or previously improved state

owned land dedicated for schools, roads, airports, utilities, public facilities, materials sites, or other governmental purposes.

(b) The refuge shall be managed to:

(1) protect fish and wildlife habitat and populations, including salmon and trout spawning and rearing habitats, and caribou, moose, and brown bear habitats; and

(2) protect public uses of fish, wildlife and their habitat, particularly subsistence, commercial, and recreational fishing, hunting, trapping, viewing, and public recreation in a high quality environment.

(c) The use and disposition of other resources may be permitted only if compatible with the purposes in subsections (b)(1) and (b)(2).

(d) Subject to valid existing rights, the land and water of the refuge are closed to mineral entry under AS 38.05.185 - 38.05.275. State land and water within the refuge may not be sold or exchanged without legislative approval.

(e)(1) Within the refuge, no state agency may issue permits for a metallic sulfide mining operation. In the event that a court of final jurisdiction holds that this paragraph takes without compensation mining claims for minerals that if developed would result in a metallic sulfide mining operation, then state agencies may issue permits under paragraphs (2) – (4) of this subsection.

(2) A state agency may issue permits, authorizations or approvals necessary for a metallic sulfide mining operation only if the applicant proves by clear and convincing evidence, and the commissioner finds, that –

(A) a similar metallic sulfide mine in a similar environment has operated for ten years without adverse impacts to fish or water quality and quantity, and that such mine in a similar environment has closed for ten years without adverse impacts to fish and water quality and quantity;

(B) the mining operation is compatible with the purposes in (b)(1) and (b)(2), and will not directly, indirectly or cumulatively adversely affect water, fish or wildlife beyond baseline conditions, or contribute to increased pressure on fish and game resources or competition among user groups, or adversely affect the opportunities of those who have engaged in subsistence, commercial, or sport use of fish and game, trapping, the lodge, guiding and tourism industries to continue to do so without diminished productivity; and

(C) the mining operation will not require long-term or perpetual care or storage or disposal of mining wastes within the refuge boundary. Such a finding at the time of permitting shall not prevent the state from requiring long-term or perpetual care if it becomes necessary during construction, operation or after closure of the mine.

(3) Notwithstanding any other law, a permit, lease, authorization or approval for a metallic sulfide mining operation or associated facilities shall be subject to a public notice and comment period of at least 90 days. The agency shall respond in writing to comments and provide scientific or technical support for responses. The agency shall provide for administrative appeals. An aggrieved person may appeal administratively and thereafter seek judicial review, or may file a complaint without exhausting administrative remedies. A decision shall be stayed during administrative or judicial proceedings.

(4) In this subsection –

(A) “long-term or perpetual care” means dewatering surface or ground water reasonably consistently over a period exceeding the usual life cycle of a salmon species to prevent pollution, including acid mine or acid rock drainage, or any unbonded or uninsured water treatment, including passive means such as lime;

(B) “metallic sulfide mining operation” means a mining operation in which sulfides and iron are present in mined, processed or excavated rock, including pyrite, chalcopyrite and bornite, or is for (i) antimony, arsenic, copper, iron, lead, mercury, molybdenum, nickel, palladium, platinum, silver, or zinc; or (ii) gold associated with any mineral listed in (i) of this definition, but does not include placer mining.

(f) Except as provided in (a) - (e) of this section, the Department of Fish and Game and the Department of Natural Resources shall exercise their respective authorities over the refuge consistent with a management plan prepared by the department of fish and game in consultation with the department of natural resources.

(g) The state may not acquire private land located within the boundary of the refuge by eminent domain. The state may acquire private and other public land within the boundary by purchase, exchange, or otherwise from willing owners for inclusion in the refuge. Municipally owned land within the boundary may be included in the refuge by mutual agreement of the landowner and the Department of Fish and Game.

(h) Establishment of the refuge shall not impair valid allotment applications filed before the effective date of this Act or access to private real property in the refuge.

(i) The Department of Fish and Game shall allow fishing, hunting, and trapping within the refuge under state and federal regulations. The department shall also permit support activities associated with hunting, fishing, and trapping when necessary and consistent with this section, including aircraft support, off-road vehicle use, and landing strips. The department may establish a citizens' advisory committee to assist regarding management of the refuge.

\* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INITIAL MANAGEMENT PLAN. The Department of Fish and Game shall complete the initial management plan for the Jay Hammond Alaskan Heritage State Fish and Game Refuge to be prepared under AS 16.20.045(f) within two years after the effective date of this Act.